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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/642,395	08/14/2003	Michael S.H. Chu	MIY-P01-024	9490
Patent Group	7590 03/17/200	EXAMINER		
Ropes & Gray LLP			RYCKMAN, MELISSA K	
One International Place Boston, MA 02110			ART UNIT	PAPER NUMBER
·			3773	
			MAIL DATE	DELIVERY MODE
			03/17/2008	PAPER

## Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
	10/642,395	CHU ET AL.
Office Action Summary	Examiner	Art Unit
	MELISSA RYCKMAN	3773
The MAILING DATE of this communication ap Period for Reply	pears on the cover sheet with the	correspondence address
A SHORTENED STATUTORY PERIOD FOR REPL WHICHEVER IS LONGER, FROM THE MAILING D.  - Extensions of time may be available under the provisions of 37 CFR 1. after SIX (6) MONTHS from the mailing date of this communication.  - If NO period for reply is specified above, the maximum statutory period Failure to reply within the set or extended period for reply will, by statut Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	DATE OF THIS COMMUNICATIO 136(a). In no event, however, may a reply be ti will apply and will expire SIX (6) MONTHS fror e, cause the application to become ABANDON	N. mely filed n the mailing date of this communication. ED (35 U.S.C. § 133).
Status		
1) Responsive to communication(s) filed on 09 A	s action is non-final. ance except for formal matters, pr	
Disposition of Claims		
4)	awn from consideration.	ection requirement.
Application Papers		
9) The specification is objected to by the Examina  10) The drawing(s) filed on is/are: a) accomposed as a composition and applicant may not request that any objection to the Replacement drawing sheet(s) including the correct and the correct of the control of the correct of the correc	cepted or b) objected to by the drawing(s) be held in abeyance. Section is required if the drawing(s) is ob	ee 37 CFR 1.85(a). Djected to. See 37 CFR 1.121(d).
Priority under 35 U.S.C. § 119		
12) Acknowledgment is made of a claim for foreign a) All b) Some * c) None of:  1. Certified copies of the priority documen 2. Certified copies of the priority documen 3. Copies of the certified copies of the priority application from the International Burea * See the attached detailed Office action for a list	nts have been received. Its have been received in Applica Prity documents have been receiven Inu (PCT Rule 17.2(a)).	tion No red in this National Stage
Attachment(s)  1) Notice of References Cited (PTO-892)  2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  3) Information Disclosure Statement(s) (PTO/SB/08)  Paper No(s)/Mail Date	4)  Interview Summar Paper No(s)/Mail I 5)  Notice of Informal 6)  Other:	Date

## **DETAILED ACTION**

This office action is in response to claims received on 4/9/07.

## Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-14,16,17,19,20,22-24 and 36-40, drawn to a delivery device for delivering an implant to an anatomical site in a body of a patient, classified in class 606, subclass 232.
- II. Claims 25-33, drawn to a method of delivering an implant to an anatomical site in a body of a patient, classified in class 606, subclass 232.

Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product. See MPEP § 806.05(h). In the instant case invention I can be used differently than described in invention II.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does

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not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MELISSA RYCKMAN whose telephone number is (571)272-9969. The examiner can normally be reached on Monday thru Friday 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jackie Ho can be reached on (571)-272-4696. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MKR /Melissa Ryckman/ Examiner, Art Unit 3773

/(Jackie) Tan-Uyen T. Ho/

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Supervisory Patent Examiner, Art Unit 3773